

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

December 18, 2008

A meeting of the Board of Environmental Protection was held on Thursday, December 18, 2008 at the Augusta Civic Center, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff and Nancy Ziegler.

Absent: Matt Scott

Vacancy: There is one vacancy on the Board.

Staff: Susan Davies, Bureau of Land and Water Quality
Andrew Fisk, Director Bureau of Land and Water Quality
Bryce Sproul, Bureau of Air Quality
Marc Cone, Bureau of Air Quality
Kathy Tarbuck, Bureau of Air Quality
Paula Clark, Bureau of Remediation and Waste Management
Carla Hopkins, Bureau of Remediation and Waste Management

Others: Jan McClintock, Assistant Attorney General
Nancy Macirowski, Assistant Attorney General (Chapter 400, 409 and 410 only)
Cindy Bertocci, BEP Executive Analyst
Terry Hanson, BEP Administrative Assistant

(Meeting adjourned at approximately 12:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: None

B. COMMENTS FROM THE BEP CHAIR: None

C. EXECUTIVE ANALYST COMMENTS:

The Board's Executive Analyst noted that Commissioner Littell is absent because he is participating in the process of verifying the results of the recent Regional Greenhouse Gas Initiative (RGGI) auction.

D. BOARD CALENDAR: Reviewed.

Board member Elizabeth Ehrenfeld asked about the status of scheduling a hearing on an appeal of the Department's order pertaining to the former HoltraChem facility in Orrington.

The Board's Executive Analyst explained that although Board staff is seeking possible hearing dates, the deadline for an appeal of the Department's Order is close of business Friday, December 19, 2008. In the event of an appeal, the Board will work with the parties and communicate with Board members regarding a possible hearing schedule.

Board member Elizabeth Ehrenfeld requested notice related to any filing of an appeal by Mallinckrodt regarding the HoltraChem facility.

E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: None

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

The Board voted (7-0-1-1) on a motion to approve consent agenda item 1 including correction of a typo on Page 2 of the draft proposed minutes concerning the spelling of Board member Ehrenfeld's name.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, P. Andrews Nixon, Don Guimond, Sue Lessard and Lissa Widoff voted to support the motion. Board member Nancy Ziegler abstained. Board member Matt Scott was absent. There is one vacancy.

1. Minutes BEP Meeting November 6, 2008.

The Board voted (7-0-1-1) on a motion to approve consent agenda item 2 as presented.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, P. Andrews Nixon, Don Guimond, Sue Lessard, and Nancy Ziegler voted to support the motion. Board member Lissa Widoff abstained. Board member Matt Scott was absent. There is one vacancy.

2. Minutes BEP Meeting November 20, 2008.

The Board voted (8-0-0-1) on a motion to approve consent agenda items 3, 4, 5, 6, 7, 8, 9 and 10 as presented.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, P. Andrews Nixon, Sue Lessard, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent and there is one vacancy.

3. WESTBROOK SCHOOL DEPARTMENT, Westbrook – Administrative Consent Agreement (BLWQ - Water)
4. VEAZIE SEWER DISTRICT, Veazie – Administrative Consent Agreement (BLWQ - Water).
5. CHRISTMAS COVE LIMITED PARTNERSHIP, South Bristol – Administrative Consent Agreement (BLWQ – Water).
6. MILTON TEGUIS, Kennebunk – Administrative Consent Agreement (BLWQ – Land).
7. FINE LINE, INC., Lincoln – Administrative Consent Agreement (BLWQ – Land).
8. OCEAN VIEW TERRACE, LLC f/k/a OCEAN VIEW TERRACE INC., Stockton Springs – Administrative Consent Agreement (BLWQ - Land).
9. JASON ST. JEAN and Erin St. Jean, Sanford – Administrative Consent Agreement (BLWQ – Land)
10. JPD ACQUISITIONS, LLC and NELSON D. HENRY, Bridgton – Administrative Consent Agreement (BRWM)

Board member Ehrenfeld asked that staff provide the Board with follow-up information on the procedure for examining alternatives to overboard discharges, the status of Fine Line's restoration plan, and Ocean View's after-the-fact permit application.

III. Regular Agenda

1. 2008 PROPOSED WATER QUALITY RECLASSIFICATION FOR CERTAIN MAINE WATERS (Appeal by Conservation Law Foundation of Chair's decision on motion to re-open the record)

Staff: Susan Davies, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to approve the request of Steve Hinchman on behalf of the Conservation Law Foundation to re-open the Board's record concerning the draft proposed recommendation for a change to the classification of Long Creek in Westbrook and to allow the recent EPA Preliminary Residual Designation document (dated December 2008) regarding discharges into Long Creek into the record.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent. There is one vacancy.

2008 PROPOSED WATER QUALITY RECLASSIFICATION FOR CERTAIN MAINE WATERS (Approval)

The Board voted (8-0-0-1) to approve for submission to the Legislature the recommendations contained in the 2008 Proposed Water Quality Reclassifications for Certain Maine Waters, with the exclusion of the draft proposed recommendation for a change in the classification of Long Creek. The vote was taken pursuant to 38 M.R.S. § 464.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent. There is one vacancy.

2. CHAPTER 400, GENERAL PROVISIONS // AMENDMENT
CHAPTER 409, PROCESSING FACILITIES // AMENDMENT
CHAPTER 410, COMPOSTING FACILITIES // NEW (adoption)

Staff: Paula Clark, Bureau of Remediation and Waste Management
Carla Hopkins, Bureau of Remediation and Waste Management

The Board voted (8-0-0-1) on a motion to adopt Chapter 400, General Provisions, Chapter 409, Processing Facilities and Chapter 410, Composting Facilities. These rule changes implement the Legislature's directive to regulate agricultural composting operations separately from facilities that compost municipal sludge, septage, industrial sludge and other materials with a higher risk of contamination. The motion included minor amendments as follows:

Chapter 409 – Section 4. Operating Requirements

Facilities with an existing solid waste processing license are required to operate in compliance with the provisions of this section.

Chapter 410 – Section 1. Applicability B. Facilities Not Subject to Requirements of this Chapter

(1)(b) Five (5) cubic yards of Type IB residuals; or

The vote was taken pursuant to 38 M.R.S. §§ 341-D(1-B), 1304(1), and 1304(1-B).

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent. There is one vacancy.

3. GENEVA WOOD FUELS, LLC // A-342-71-P-T/A (Appeal submitted by Strong Green Energy, LLC)

The Board voted (8-0-0-1) on a motion to deny the appeal, submitted by Strong Green Energy LLC and affirm Department Order #A-342-71-P-T/A approving a license transfer and amendment for the installation of a new rotary convection air drier for the wood pellet manufacturing facility in Strong, finding that the applicant had demonstrated sufficient title, right, or interest for processing the application. The vote was taken pursuant to 38 M.R.S. § 341-D(4) and 06-096 CMR Chapter 2.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Matt Scott, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent. There is one vacancy.

GENEVA WOOD FUELS, LLC // A-342-71-P-T/A (Petition to Revoke, Modify or Suspend the facility license submitted by Strong Green Energy, LLC)

Staff: Bryce J. Sproul, Bureau of Air Quality

The Board voted (7-0-1-1) on a motion to dismiss the petition submitted by Strong Green Energy LLC concerning Department Order #A-342-71-P-T/A approval for license transfer and amendment for the installation of a new rotary convection air drier for the wood pellet manufacturing facility in Strong. The vote was taken pursuant to 38 M.R.S. § 341-D(3) and 06-096 CMR Chapter 2.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, and Nancy Ziegler voted to support the motion. Board member Lissa Widoff abstained. Board member Matt Scott was absent. There is one vacancy.

4. 2008 DRAFT PROPOSED REPORT TO LEGISLATURE (discussion / approval)

Staff: Cynthia S. Bertocci, BEP Executive Analyst

Following review of the draft proposed Legislative report, Board members provided additional comment for modifications and authorized the Chair to work with staff to finalize the report for submission to the Legislature by January 15, 2009.